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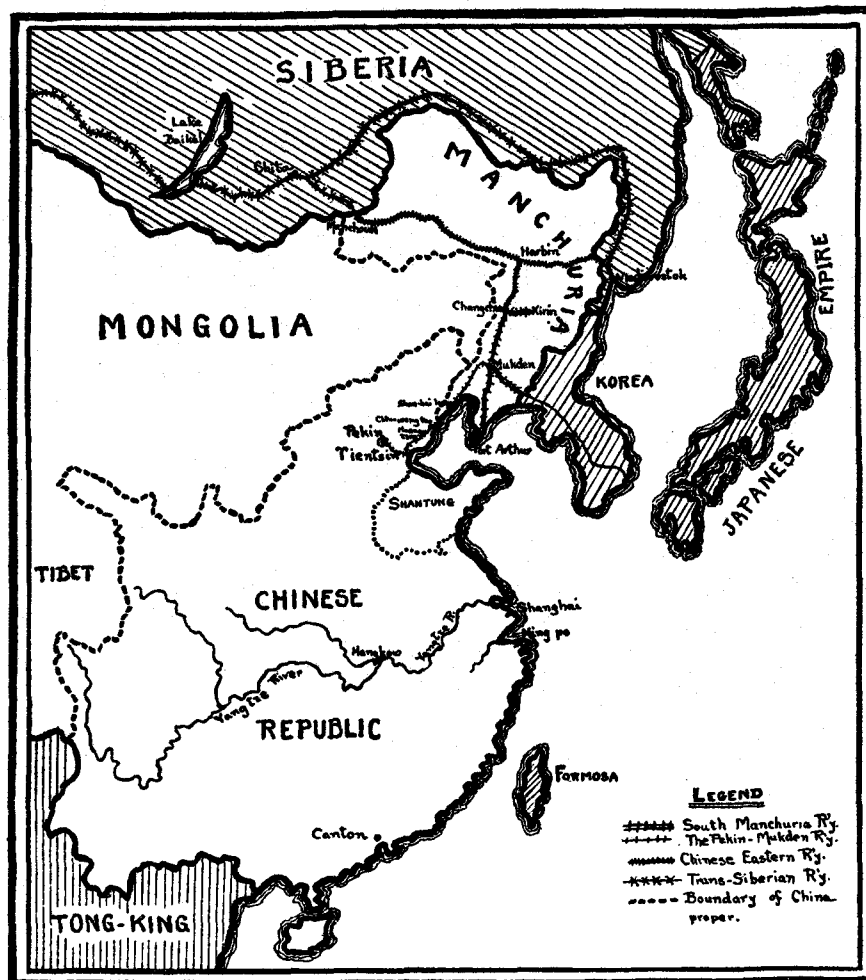
NINE EAST FORTY-FIFTH STREET, NEW YORK CITY

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Series 1925-26
No. 7

January 9, 1926

FOREIGN TROOPS AND WARSHIPS IN CHINA



Prepared by the Foreign Policy Association

SKETCH MAP OF CHINA AND MANCHURIA

This report contains a brief review of those treaties and agreements under which foreign troops and ships of war are maintained in Chinese territory and Chinese inland waters, together with the conflicting claims of Japan and China in regard to Japanese troops in Manchuria.

JAPANESE TROOPS IN MANCHURIA

The recent action of Japan in rushing 3,500 additional Japanese troops to Manchuria to protect the South Manchuria Railway and other Japanese rights and interests, has again raised the question of the status of foreign troops and warships in Chinese territory. The immediate occasion of this move on the part of Japan was said to be the civil war in the vicinity of Mukden, capital of Manchuria, and the center of Japanese interests.

The presence of Japanese troops, however, has been a source of friction between China and Japan ever since the Russo-Japanese War of 1905, when Japan took over the Russian lease of the Liao-tung Peninsula, with Port Arthur, and gained control of the South Manchuria Railway, for the protection of which she has maintained railway guards for twenty years. China has repeatedly challenged the right of Japan to station her troops in Manchuria, while Japan has insisted that she has full legal authority, based on her treaties with Russia and China. The treaty basis for these conflicting claims, as well as the authority under which other foreign troops and warships are stationed in China with China's consent, are briefly outlined in this report.

CHINA'S PROPOSAL AT THE WASHINGTON CONFERENCE

At the Washington Conference, in 1921-22, China raised the question of foreign troops on the ground that the stationing of such troops on Chinese soil without her express consent constituted a violation of China's sovereignty and territorial and administrative integrity. The Chinese delegation accordingly asked each of the other Powers to declare that. "... without the consent of the Government of China, expressly and specifically given in each case, it will not station troops or railway guards or establish and maintain police boxes, or erect or operate electrical communication installations, upon the soil of China; and that if there now exist upon the soil of China such troops or railway guards or police boxes or electrical installations without China's express consent, they will be at once withdrawn."

In presenting this proposal, the Chinese delegate said: "No argument by me is needed to show that this conference stands committed to the declaration which I now ask, by the principles which were adopted on November 21. Should any one of you consider the possibility of foreign troops or railway guards, or police boxes, or electrical communication installations being maintained upon the soil of your own country without the consent of the Government which you represent, your feelings of justice and your sense of the dignity due to your own State, would make evident to you the propriety of the joint declaration which China now asks you to make in her behalf. The proposition surely stands self-evident that, if a nation assents a right to maintain troops, or guards, or police, or to erect and operate systems of communication upon the soil of another State, whose sovereignty and independence and territorial and administrative integrity it has just solemnly affirmed and obligated itself to respect, upon that State should lie a heavy burden of proof to justify so grievous an infringement of the rights of exclusive territorial jurisdiction which international law as well as a

general sense of international comity and justice, recognizes as attaching to the status of sovereignty and independence."

Upon request, the Chinese delegation submitted a list of foreign troops and police stationed in China at that time without her consent, all of which were Japanese. In submitting this list, the Chinese delegation expressly disclaimed any intention of bringing up at that time the question of foreign troops stationed in China with treaty sanction.

RESOLUTION OF THE WASHINGTON CONFERENCE

Instead of accepting the Chinese proposal, the other Powers at the Washington Conference adopted a resolution declaring "their intention to withdraw their forces now on duty in China without the authority of any treaty or agreement, whenever China shall assure the protection of the lives and property of foreigners in China," and providing for "a full and impartial inquiry" by the diplomatic representatives of the Powers concerned, together with three representatives of the Chinese Government. This inquiry has not yet been undertaken.

TREATIES RELATING TO JAPANESE TROOPS IN MANCHURIA

Japan has based her right to station troops in Manchuria upon certain provisions of the Portsmouth Treaty of September 5, 1905, which concluded the Russo-Japanese War, and the treaty of the same year between Japan and China. These provisions, and the basis of China's counter claims, may be briefly summarized as follows:

In the Portsmouth Treaty Russia and Japan reserve the right to maintain railway guards, not to exceed 15 men per kilometer. (As the length of the South Manchuria Railway is 1097 kilometers (680 miles) this would allow Japan approximately 15,000 troops.) But China denies having ever given her assent to this provision of the Portsmouth Treaty.

The Supplementary Agreement to the Treaty of 1905 between China and Japan provides for the withdrawal of Japanese railway guards in the event that Russia withdraws her troops, and when China can assure protection of foreign lives and property. China has asserted that the first condition has been met by the withdrawal of Russian troops, and that Japan has never given China an opportunity to demonstrate her ability to protect foreign lives and interests in Manchuria.

DETAILS OF TREATY PROVISIONS

To quote the pertinent clauses of these agreements, in Article I of the Additional Articles of the Portsmouth Treaty both Japan and Russia reserved the right to maintain guards for the protection of their respective railroad lines in Manchuria, with the provision that:

"The number of these guards shall not exceed 15 men per kilometer, and within the limit of this maximum number the commanders of the Russian and Japanese armies shall, by mutual agreement, fix the number of guards who are to be employed, this number to be as low as possible and in accordance with actual requirements. The

commanders of the Russian and Japanese forces in Manchuria shall reach an understanding regarding all the details connected with the evacuation, in conformity with the principles herein set forth, and shall, by mutual agreement, adopt the measures necessary to carry out the evacuation as soon as possible, and at all events within a period not exceeding eighteen months."

A subsequent Russo-Japanese protocol of October 30, 1905, has the additional stipulation that the "number of guards...shall be 15 per kilometer on the average." This would seem to indicate that Japan and Russia contemplated the possibility of concentrating troops in Manchuria.

Although China, in her treaty with Japan in December, 1905, recognized the transfers made by Russia to Japan in the Portsmouth Treaty, the Chinese delegation stated at the Washington Conference that "these provisions (quoted above) were not assented to by China in 1905."

SINO-JAPANESE TREATY OF 1905

What China did recognize in her treaty with Japan were the Japanese conditions for withdrawal, contained in Articles 2 and 3 of the Supplementary Agreement:

"Article II. In view of the earnest desire expressed by the Imperial Chinese Government to have the Japanese and Russian troops and railway guards in Manchuria withdrawn as soon as possible, and, in order to meet this desire, the Imperial Japanese Government, in the event of Russia agreeing to the withdrawal of her railway guards, or in case that other proper measures are agreed to between China and Russia, consent to take similar steps accordingly. When tranquillity shall have been re-established in Manchuria, and China shall have become herself capable of affording full protection to the lives and property of foreigners, Japan will withdraw her railway guards simultaneously with Russia.

"Article III. The Imperial Japanese Government, immediately upon the withdrawal of their troops from any regions in Manchuria shall notify the Imperial Chinese Government of the regions thus evacuated, and even within the period stipulated for the withdrawal of troops in the Additional Articles of the Treaty of Peace between Japan and Russia, the Chinese Government may send necessary troops to the evacuated regions of which they have been already notified as above mentioned, for the purpose of maintaining order and tranquillity in those regions. If in the regions from which Japanese troops have not yet been withdrawn any villages are disturbed or damaged by native bandits, the Chinese local authorities may also dispatch a suitable military force for the purpose of capturing or dispersing those bandits. Such troops, however, shall not proceed within 20 Chinese li (approximately 6 2/3 miles) from the boundary of the territory where Japanese troops are stationed."

Referring to these articles at the Washington Conference, China stated that Russia had withdrawn her troops from Manchuria, but that

Japan had retained hers. The Chinese representative said further that "China has time and again offered to take over the protection of the South Manchuria Railway and requested Japan to withdraw her troops. If Japan continues to maintain that the alleged existing state of banditry in Manchuria requires the presence of Japanese troops as a "measure of absolute necessity", China may never have an opportunity to show that she is capable of affording protection to the lives and property of foreigners. Moreover, the mere presence of Japanese troops themselves makes for friction with the natives and arouses rather than allays disorders throughout the adjacent districts. The present conditions of Japanese military control have continued for over 15 years and on the present contentions of the Japanese delegation may be prolonged indefinitely at the will of Japan. China cannot continue to submit to these infractions of its territorial and administrative integrity and asks the conference to take definite measures to bring these irritating controversies to a close."

AGREEMENTS WITH SOVIET RUSSIA, 1924-25

Since the Washington Conference this situation has been further complicated by the treaties signed by Soviet Russia and Japan, and Soviet Russia and China.

In the treaty between Japan and Soviet Russia, signed in Peking January 20, 1925, Russia agreed that the Treaty of Portsmouth "shall remain in full force." China, however, at once protested, on the ground that such an agreement was in direct contravention to the Chinese-Russian Agreement of May 31, 1924, in which Russia declared that all treaties or agreements concluded by the former Czarist government and any third country or countries which might prejudice China's sovereign rights or interests, shall be null and void. In the same treaty Russia also declared that henceforth it would not conclude any agreement with any third country which might affect the sovereign rights or interests of China.

In a note to the Soviet Ambassador in Peking, dated February 11, 1925, China stated "...the Chinese Government solemnly protests and explicitly declares that this Government will not recognize such an act in violation of the Sino-Russian agreement on the part of the Soviet Government."

In a note of the same date to the Japanese legation, China declared that it "would not recognize any provision of the above mentioned Treaty if it should affect the territorial sovereignty, rights or interests of the Chinese Government," and that it had so notified Russia.

The Japanese legation replied that "the rights and interests of Japan acquired in Manchuria in virtue of the Portsmouth Treaty were recognized in the Sino-Japanese treaty concluded in Peking in 1905, which cannot be affected by any Sino-Russian agreement, or any controversy between China and Soviet Russia." The Soviet Ambassador to China took essentially the same position in his reply to the Chinese protest.

JAPANESE POLICY IN MANCHURIA

As indicated above Japan had not withdrawn her troops from Manchuria

at the time of the Washington Conference. Nor has she withdrawn them since that time. According to unofficial estimates, there have recently been approximately 8,000 Japanese troops stationed along the South Manchuria Railway. The Japanese War Ministry issued the following statement December 15, 1925:

"The Japanese forces in Manchuria have strictly refrained from any manner of interference in the present warfare, their whole effort being confined to the protection of our nationals and Japan's rights and interests. With the latter end in view, the commander of the Japanese garrisons has given both sides an understandable warning."

FOREIGN TROOPS IN CHINA WITH TREATY SANCTION

In addition to the Japanese troops stationed in South Manchuria, a number of foreign troops are stationed in China with China's express consent. After the Boxer Rebellion, China was forced to grant certain rights to the Powers as a condition of the re-establishment of friendly relations. The joint note of the Powers, dated December 22, 1900, included as conditions for re-establishment of normal relations the right of each Power to maintain a permanent guard for its legation, and to put the legation quarter in a defensible condition, as well as the right to occupy certain points for keeping open communication between the capital and the sea.

The Chinese note and protocol of January 16, 1901, accepted all the conditions of the Powers "in their entirety."

The above conditions were embodied in the final protocol of September 7, 1901, as follows:

"Article 7. The Chinese Government has agreed that the quarter occupied by the legations shall be considered as one specially reserved for their use and placed under their exclusive control, in which Chinese shall not have the right to reside and which may be made defensible.

In the protocol annexed to the letter of the 16th of January, 1901, China recognizes the right of each Power to maintain a permanent guard in the said quarter for the defence of its legation.

"Article 9. The Chinese Government has conceded the right to the Powers in the protocol annexed to the letter of the 16th of January, 1901, to occupy certain points, to be determined by an agreement between them, for the maintenance of open communication between the capital and the sea. The points occupied by the Powers are:

Huang-tsun, Lang-fang, Yang-tsun, Tientsin, Chun-liang, Ch'eng, Tang-ku, Lu-tai, Tang-shan, Lan-chon, Chang-li, Ch'in-wang tao, Shan-hai kuan." (All of these points are situated along the Pekin-Mukden Railway).

It is in virtue of these provisions that the Treaty Powers maintain troops in the legation quarter in Peking, and at various other points in North China. The China Year Book, 1925, gives the following figures for foreign troops in China:

Legation Guards

American	348	(According to latest available Report of the Secretary of the Navy 651 American marines are on duty in Peking.)
British	198	
French	221	
Italian	50	
Japanese	<u>132</u>	
Total	949	

Strength of Foreign Garrisons at other points (Legation Guards excepted)

American,	955	(According to latest War Department information 979 American army officers and men are stationed in China, all in Tientsin.)
British	834	
French	1,530	
Japanese	400	
Italian	<u>400</u>	
Total	4,119	

These figures do not include the Japanese troops in Manchuria, which are said to number about 8,000.

TREATY PROVISIONS REGARDING SHIPS OF WAR IN CHINESE WATERS

Ever since 1858 the Treaty Powers have claimed the right to send warships to China's inland ports, although the treaty basis for this claim is slight. The claim is generally based upon Article 52 of the Sino-British Treaty of 1858, which reads as follows:

"British ships of war, coming for no hostile purpose, or being engaged in the pursuit of pirates, shall be at liberty to visit all ports within the dominions of the Emperor of China, and shall receive every facility for the purchase of provisions, procuring water, and, if the occasion require, for the making of repairs. The commanders of such ships shall hold intercourse with the Chinese authorities on terms of equality and courtesy."

Similar rights were granted by China to a number of other nations, including France, Belgium and Austria-Hungary. In all these cases the rights are unilateral.

UNITED STATES SHIPS IN CHINESE WATERS

As regards the United States, Article 9 of the Treaty, of June 18, 1858, with China provides:

"Whenever national vessels of the United States of America, in cruising along the coast and among the ports opened for trade for the protection of the commerce of their country or for the advancement of science, shall arrive at or near any of the ports

of China, commanders of said ships and the superior local authorities of Government shall, if it be necessary, hold intercourse on terms of equality and courtesy, in token of the friendly relations of their respective nations; and the said vessels shall enjoy all suitable facilities on the part of the Chinese Government in procuring provisions or other supplies and making necessary repairs...."

AMERICAN INTERPRETATION OF TREATY PROVISIONS

In 1903 the American gunboat Villalobos was sent to visit certain places on the upper Yangtze which were not treaty ports, at a time when there was no riot or disturbance actually going on, and the local Chinese authorities protested. Apparently the Chinese authorities had not protested at the previous presence of American gunboats during actual outbreaks. In reply to the Chinese protest, Rear-Admiral Evans, commander of the American fleet in Far Eastern waters, contended that American gunboats had the right to visit all places where Americans resided and had property or other interests, not only in case of riots or other disturbances, but to investigate conditions and see what measures of protection could be taken in case there should be disturbances. He based this right, not upon the American treaty quoted above, but upon Article 52 of the British treaty of 1858. Rear-Admiral Evans pointed out in this connection that China was bound by treaty to accord most-favored-nation treatment to the United States.

As regards the interpretation of Article 52 of the British treaty, Willoughby, in his book "Foreign Rights and Interests in China," p. 166, has the following comment:

"Some differences of opinion have arisen between the Chinese authorities and the Treaty Powers with regard to the right of the warships of the latter to visit inland ports in China. This right has been insisted upon by the Powers, but in order to sustain their contention they have been obliged to give very liberal interpretations to the single treaty stipulation to which they have been able to refer. This stipulation is found in Article 52 of the Sino-British Treaty of 1858...."

OPINION OF THE STATE DEPARTMENT

It appears from the official correspondence upon the Villalobos incident, found in "Foreign Relations of the United States," 1903, pp. 85-90, that the American minister at Peking did not share Rear-Admiral Evans's view in regard to the rights of American gunboats in China. The American Department of State, however, upheld the Admiral in the following terms:

"The Department is inclined to the opinion that Rear-Admiral Evans is right in his contention that our gunboats may visit the inland ports of China, including those which are not treaty ports. Even if this right were not granted us by treaty, Rear-Admiral Evans is unquestionably right in using it when like ships of other powers are constantly doing so....This Department thinks, however, that Article 52 of the British Treaty of 1858 with China, which

is reproduced in Article 34 of the Austro-Hungarian Treaty of 1869, gives full authority for his course."

COOPERATION BETWEEN THE POWERS

The procedure usually followed in time of crisis by the principal Powers maintaining fleets in Chinese waters may be summarized as follows:

If in China a situation arises which is of general concern and possible danger to all foreign residents, the representatives of the respective foreign offices assemble for conference. The general principles to be followed are decided upon, and if the assistance of the naval forces of the various Powers is desired, their respective commanders are called in to participate in the deliberations. The broad lines of action contemplated are laid down, and the senior naval officer afloat, irrespective of his nationality, is placed in command of the joint naval forces. The decisions reached are reported to the Governments concerned, and are subject to check by them.

AMERICAN NAVAL FORCES IN CHINA DURING RECENT DISTURBANCES

On July 1, 1925, during the disturbances which followed upon the "May 30th Incident" in Shanghai, there was a total of 45 American war-ships in Chinese waters. This fleet consisted of the following: 1 cruiser, 22 destroyers, 8 gunboats, 6 submarines, 4 minesweepers, 1 transport, 1 fuel ship, 1 submarine tender, 1 destroyer tender. The ships were located as follows: 23 at Shanghai and Yangtze ports, 6 in South China ports and 16 in North China ports. Under ordinary circumstances the bulk of the Asiatic fleet holds summer manoeuvres in the vicinity of Chefoo.

AMERICAN NAVAL FORCES IN CHINA OCTOBER 23, 1925

On October 23, 1925, when conditions were normal, the American naval forces in Chinese waters were composed of the following: 1 cruiser, 8 gunboats, 3 destroyers, 2 mine sweepers, 1 transport.

The total number of vessels in the American Navy's Asiatic fleet is 55; on July 1st, 45 of these were in Chinese waters, whereas on October 23rd, 15 were in Chinese waters.

COST OF OPERATIONS

According to information received from the Navy Department, the total cost of operation of the Asiatic fleet for the fiscal year 1925 was \$10,990,044.50. Of this, \$984,755.60 was expended for the Yangtze Patrol, and \$358,362.30 for the South China Patrol. The cost of operation of the destroyer squadron was \$4,870,234.54.

The Yangtze Patrol consists of river gunboats of a special type suitable for navigating shallow rivers and swift currents. These gunboats patrol the Yangtze River in order to protect American lives, property and business. In order to replace the old gunboats, Congress last year passed an act providing for the construction of six river gunboats, "to cost, exclusive of armament, not to exceed \$700,000 each." These are now under construction at Shanghai.

